

8-2-1. State treasurer to receive donations.

Money which has been or shall be declared by an instrument in writing to be intended for the perpetual care, maintenance, improvement, or embellishment of any cemetery, or of any lots therein, to an amount not less than \$50, may be deposited with the state treasurer, who shall, in the name of the state, receive and receipt for it. The depositors shall at the time of making such deposit file with the treasurer and with the Division of Corporations and Commercial Code a copy of the instrument which declares the purpose for which the money so deposited is intended to be applied. If the cemetery is held in private ownership, the deposit shall be accompanied by a written agreement on the part of the person, association, or corporation operating the same that the income derived from the sum so deposited will be applied to the purposes designated by the depositor as set forth in the instrument filed with such deposit.

Amended by Chapter 66, 1984 General Session

8-2-2. Investment of funds by Division of Finance.

The Division of Finance shall with the approval of the governor invest the money which may be deposited with the state treasurer under the provisions of the preceding section in the name of the state, in bonds or other obligations of the state or of the United States, or in securities in which the division is authorized to invest money in behalf of the state, and semiannually in each year it shall cause to be paid the accrued interest thereof to such person, association or corporation for the care, maintenance or improvement of any cemetery or cemetery lot where the money has been deposited for that purpose. If such cemetery is not held in private ownership, such interest shall be paid to the city or town in which the cemetery is located. At the time of paying such interest the treasurer shall inform the person, city, or town to whom it is paid of the purpose to which it is to be applied as stated in the copy of the instrument which is filed with him, and the person, city, or town to whom it is paid shall apply it to such purpose.

Amended by Chapter 30, 1992 General Session

8-3-1. Plats of cemeteries shall be recorded.

The executive officers of organizations and all individual owners in control of cemeteries, offering burial lots for sale in any county, shall file and cause to be recorded in the office of the county recorder of the county within which such cemeteries are situated an accurate plat thereof, which shall clearly show the sections of burial lots which have been disposed of and the names of the persons owning or holding the same, and the sections of burial lots held for disposal; and thereafter such executive officers or owners shall file additional plats of any additions to such cemeteries before offering for sale any burial lots therein. County recorders may not collect any fees for filing and recording such original plats.

Amended by Chapter 378, 2010 General Session

8-3-2. Burial rights -- Certificates.

Every purchaser of a lot or burial right therein shall be furnished by such

executive officers or individual owners with a certificate of burial rights, properly executed, and the same may be filed and recorded by the county recorder of the county within which the cemetery is situated.

No Change Since 1953

8-3-3. Transcripts to be filed for record.

On the first days of January and July of each year such executive officers and individual owners offering burial lots for sale shall file with the county recorder of the county within which the cemeteries are situated a transcript, duly certified by them, of any and all deeds, certificates of sale or evidences of burial rights issued by them during the preceding six months. The county recorders shall file such abstracts without charge and make any and all necessary notations upon the plats of the cemeteries theretofore filed with them.

No Change Since 1953

8-4-1. Entities subject to chapter -- Definitions.

(1) An endowment care cemetery in this state, except those owned and operated by churches, religious or established fraternal societies, or incorporated cities, towns, or other political subdivisions of the state, shall comply with the requirements of this chapter.

(2) As used in this chapter "endowment care cemetery" means a cemetery or mausoleum for crypt or vault interments, columbarium for permanent cinerary interments, or any other place providing lots or other interment space for the remains of human bodies that:

(a) represents to the public that it will care for, maintain, and embellish its property to preserve it from becoming unkempt and a place of reproach and desolation in the community in which it is located; and

(b) collects funds for the purpose stated in Subsection (2)(a).

Amended by Chapter 3, 1996 General Session

8-4-2. Endowment care cemetery trust funds -- Deposits in endowment fund -- Reports -- Penalties for failure to file -- Investment of trust fund money -- Attestation.

(1) An endowment care cemetery shall establish an endowment care trust fund pursuant to Title 75, Chapter 7, Utah Uniform Trust Code.

(a) Any newly established endowment care cemetery or existing cemetery converting to an endowment care cemetery shall deposit a minimum of \$25,000 in the endowment care trust fund.

(b) Each endowment care cemetery shall deposit in the endowment care trust fund for each plot space sold or disposed of a minimum of:

(i) \$1.50 a square foot for each grave;

(ii) \$15 for each niche; and

(iii) \$60 for each crypt.

(2) (a) An endowment care cemetery shall collect endowment care funds only pursuant to a written contract of sale signed by the endowment care cemetery and the purchaser.

(b) The contract of sale shall specify the terms of the endowment care trust consistent with this section and the terms of payment.

(c) If requested by the purchaser, a copy of the endowment care trust shall be provided to the purchaser.

(3) (a) Each endowment care cemetery shall prepare an annual written report for the benefit of its trustor lot holders.

(b) The report shall contain:

(i) information determined to be reasonable and necessary to show compliance with the provisions of this chapter;

(ii) the number and square feet of grave space;

(iii) the number of crypts and niches sold or disposed of under endowment care during a specific period; and

(iv) the dollar amount of sales, amounts paid, amounts receivable, and amounts deposited in endowment care funds for crypts, niches, and grave space during a specific period, set forth on the accrual basis as determined by the cemetery authority.

(c) An officer of the endowment care cemetery authority shall verify the report.

(d) The report shall be on file in the principal office of the endowment care cemetery and shall be made available upon request.

(e) The report shall be completed by the 15th day of the third month following the end of the endowment care cemetery's fiscal year.

(4) An officer, director, partner, proprietor, or other person having control of the records of an endowment care cemetery shall provide the reports and records necessary to comply with the provisions of this chapter.

(5) A person is guilty of a class A misdemeanor who willfully and intentionally fails to:

(a) deposit funds collected as endowment care funds into the endowment care trust within 30 days of receipt of the funds; or

(b) prepare the report required by Subsection (3).

(6) Endowment care funds may be invested separately or together. The investment income shall be divided between the funds in the proportion that each contributed to the invested amount.

(7) Endowment care funds shall be invested in accordance with Section 31A-18-105 and Title 75, Chapter 7, Utah Uniform Trust Code.

(8) (a) An endowment care cemetery shall place endowment care funds with an independent trustee appointed by the endowment care cemetery.

(b) A trustee may be independent even if it has common ownership with the cemetery.

(c) The independent trustee shall be a depository institution, as defined by Section 7-1-103, or an insurer, as defined in Section 31A-1-301.

(9) (a) The trustee shall submit to the endowment care cemetery an annual independent attestation of the endowment care trust funds.

(b) The attestation shall state:

(i) the total amount of the general and special endowment care funds invested

by law;

- (ii) the amount of cash on hand not invested;
- (iii) the location, description, and character of the investments in which the special endowment care funds are invested;

- (iv) the value of any securities held in the endowment care fund; and

- (v) the actual financial condition of the funds.

(10) (a) A trustee may not receive compensation for services and expenses, including audits, in excess of 5% of the income derived from an endowment care fund in any year.

(b) If there are insufficient funds from the income derived from the endowment care trust fund to pay for the attestation of the endowment care funds, the endowment care cemetery shall pay amounts due from funds other than the endowment care trust fund or income derived from that fund.

(11) The income from an endowment care fund shall be used for the care, maintenance, and embellishment of the cemetery as determined by the endowment care cemetery, and to pay for administering the fund.

Amended by Chapter 324, 2010 General Session

8-4-3. Withdrawals from endowment fund.

When the endowment care fund balance reaches \$100,000, the cemetery authority may withdraw the initial deposit of \$25,000 at the rate of \$1,000 for each additional \$3,000 added to the fund.

Amended by Chapter 167, 2000 General Session

8-4-4. Insufficiency in endowment fund.

(1) An endowment care cemetery that maintains a trust fund that is not funded at least in the amount required by this chapter or any state or federal law applicable to the fund at the time of underfunding shall immediately deposit additional money to the endowment care trust fund in an amount to bring the fund into compliance with applicable law.

(2) (a) If the trustee of an endowment care trust fund determines that an insufficiency in the endowment care trust fund exists, the trustee shall provide written notice to the endowment care cemetery.

(b) If after 60 days of the notice to the endowment care cemetery, the endowment care cemetery has not deposited sufficient money into the fund, the trustee shall file, as a lien upon the property of the endowment care cemetery, a claim in behalf of the endowment care trust fund in the amount of the insufficiency.

Amended by Chapter 3, 1996 General Session

8-5-1. Unused or unkept lots -- Notice procedures.

(1) If a municipality or cemetery maintenance district owns a cemetery and has conveyed cemetery lots or parcels by deed with or without restrictions, and the grantee, or persons claiming through the grantee, for more than 60 years:

(a) have not used portions of the lots or parcels for purposes of burial and have not provided for the care of the lots or parcels beyond that uniformly provided for all lots of the cemetery, and during the 60-year period have not given the municipality or cemetery maintenance district written notice of any claim or interest in the lots or parcels; or

(b) have not used a portion of the lots or parcels for purposes of burial and have not kept the lots or parcels free of weeds or brush, but have allowed it to remain entirely unimproved for more than 20 years, and the lots or parcels are located in the portion of the cemetery where they adjoin or are adjacent to improved parts of the cemetery and by reason of their unimproved condition detract from the appearance of the cemetery, interfere with its harmonious improvements, and furnish a place for the growth of weeds and brush, then the municipality or cemetery maintenance district shall demand of the grantee or persons claiming through the grantee either of the following:

(i) that they file with the municipality or cemetery maintenance district a written notice of claim or interest in and to the lots or parcels recorded by evidence of their claim of ownership within 50 days after the service of a copy of the notice of demand; or

(ii) that they keep the premises clear of weeds and in a condition of harmony with other adjoining lots.

(2) The municipality or cemetery maintenance district shall serve a copy of the demand or notice required by Subsection (1) on the grantee or persons claiming through the grantee in accordance with the Utah Rules of Civil Procedure.

Amended by Chapter 123, 2002 General Session

8-5-2. Action in district court for title to lots.

If either the grantee, or person claiming through the grantee, fails to comply with the demand or notice, the municipality or cemetery maintenance district may bring an action in the district court of the county in which the cemetery is located against all parties who have not responded to the notice for the purpose of terminating the rights of the parties in the lots or parcels and restoring the lots or parcels to the municipality or cemetery maintenance district free of any right, title, or interest of the grantee, persons claiming through the grantee, their heirs, or assigns. Any action to reclaim title to grave sites, parcels, or lots shall be brought and determined in the same manner as actions concerning other real property. The portion of any grave site, lot, or parcel in which a body is buried may not be included in any action to revest title to the lot, site, or parcel in the municipality or cemetery maintenance district, and the grave site in which a body is interred shall remain undisturbed together with any adjoining property so as to allow the proper approach to the grave site.

Amended by Chapter 123, 2002 General Session

8-5-3. Abandonment -- Standards -- Prima facie evidence.

The fact that the grantee or holder of a lot or parcel in a cemetery has not used portions of the lots or parcels for the purpose of burial for more than 60 years shall be prima facie evidence that the grantee or holder had abandoned the lots or parcels if during that time the grantee or holder:

(1) has not provided the care to the lots or parcels provided uniformly to all lots or parcels within the cemetery;

(2) has not given to the municipality or cemetery maintenance district a written notice of claim or interest in the lots or parcels; or

(3) has not kept the lots or parcels free of weeds or brush.

Amended by Chapter 123, 2002 General Session

8-5-4. Copy of judgment to be filed with county recorder.

A certified copy of the judgment in the action to revest title to cemetery lots, sites, or parcels shall be filed with the county recorder in the county in which the lots, sites, or parcels are located.

Enacted by Chapter 132, 1985 General Session

8-5-5. Proceeds of resale of lots.

The proceeds from the subsequent resale of any lot or parcel, title to which has been revested in the municipality or cemetery maintenance district under Section 8-5-2 or 8-5-6, less the costs and expenses incurred in the proceeding, shall become part of the permanent care and improvement fund of the municipality or cemetery maintenance district, subject to subsequent disposition under Title 10, Chapter 5, Uniform Fiscal Procedures Act for Utah Towns, Title 10, Chapter 6, Uniform Fiscal Procedures Act for Utah Cities, or Title 17B, Chapter 1, Part 6, Fiscal Procedures for Local Districts.

Amended by Chapter 329, 2007 General Session

8-5-6. Alternative council or board procedures for notice -- Termination of rights.

(1) As an alternative to the procedures set forth in Sections 8-5-1 through 8-5-4, a municipal council or cemetery maintenance district board may pass a resolution demanding that the owner of a lot, site, or portion of the cemetery, which has been unused for burial purposes for more than 60 years, file with the county recorder, city recorder, or town clerk notice of any claim to the lot, site, or portion of the cemetery.

(2) The municipal council or cemetery maintenance district board shall then cause a copy of the resolution to be personally served on the owner in the same manner as personal service of process in a civil action. The resolution shall notify the owner that the owner shall, within 60 days after service of the resolution on the owner, express interest in maintaining the cemetery lot, site, or portion of the cemetery and submit satisfactory evidence of an intention to use the lot, site, or portion of the cemetery for a burial.

(3) If the owner cannot be personally served with the resolution of the municipal council or cemetery maintenance district board as required in Subsection (2), the municipal council or cemetery maintenance district board shall publish its resolution:

(a) (i) for three successive weeks in a newspaper of general circulation within the county; and

(ii) in accordance with Section 45-1-101 for three weeks; and

(b) mail a copy of the resolution within 14 days after the publication to the owner's last known address, if available.

(4) If, for 30 days after the last date of service or publication of the municipal council's or cemetery maintenance district board's resolution, the owner or person with a legal interest in the cemetery lot fails to state a valid interest in the use of the cemetery lot, site, or portion of the cemetery for burial purposes, the owner's rights are terminated and that portion of the cemetery shall be vested in the municipality or cemetery maintenance district.

Amended by Chapter 388, 2009 General Session

8-5-7. Sale of only right to be buried.

Municipalities and cemetery maintenance districts shall sell only the right to be buried in the cemetery and all cemetery lots or parcels sold by a municipality after April 29, 1985, or by a cemetery maintenance district after June 1, 2001 shall be rights to be buried only. Nothing in this section shall prevent municipalities or cemetery maintenance districts from imposing additional terms on the sale of rights to burial.

Amended by Chapter 123, 2002 General Session

8-5-8. Municipal and maintenance district cemeteries -- Rights of lot holders -- Compensation -- Perpetual care charges.

(1) The owner, grantee, or person claiming through the grantee shall have the right, on presentation of the certificate of title or right to burial to the municipality or cemetery maintenance district, for any lot or parcel which has reverted to the municipality or cemetery maintenance district, at the option of the municipality or cemetery maintenance district, to:

(a) be compensated for the lot or parcel at the reasonable value of the lot or parcel as of the date the certificate is presented to the municipality or cemetery maintenance district;

(b) receive a right to burial to another lot or parcel if the right to burial or title to the lot or parcel has been sold by the municipality or cemetery maintenance district; or

(c) receive the right to burial to the lot or parcel if the municipality or cemetery maintenance district has not sold the right to burial to the lot or parcel.

(2) Nothing in this section prevents a municipality or cemetery maintenance district from collecting unpaid perpetual care charges from a person claiming title or the right to burial.

Amended by Chapter 123, 2002 General Session